

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA

ADMINISTRATIVE POLICY GOVERNING ELECTRONIC FILING AND SERVICE

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**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA**

ADMINISTRATIVE POLICY GOVERNING ELECTRONIC FILING AND SERVICE

I. General Information

- (A) Electronic Filing is the process of uploading a document from a registered user's computer, by way of the court's Internet-based Electronic Case Files (ECF) system, to the court's official case file and docket. The ECF system only accepts documents in portable document format (PDF). There are two main types of PDF documents, electronically converted PDFs and scanned PDFs. Electronically converted PDFs are created from word processing documents (MS Word, WordPerfect, etc.) using Adobe Acrobat or similar software. Scanned PDFs are created from paper documents run through an optical scanner. Electronically converted PDFs are the preferred type, and all PDFs submitted must be legible.
- (B) Effective January 1, 2006, the use of ECF is the preferred practice for the District of North Dakota. Documents filed prior to November 18, 2005, will not be available for viewing on the ECF system. Effective January 1, 2007, the use of ECF by attorneys will be the standard of practice. All documents must be filed using ECF, unless specifically exempted under Section IX of these Administrative Policies or unless an individual attorney receives leave of court to not use the system based upon a showing of good cause.
- (C) The official court record shall be the electronic file maintained on the court's servers together with any paper documents filed in accordance with these Policies.
- (D) PDF files submitted on the ECF system must be no larger than 2 megabytes in size. Large files must be subdivided to comply with these megabyte limits prior to submitting to the court by way of the ECF system.
- (E) Any charges imposed upon users for viewing or downloading documents are dictated by the Judicial Conference of the United States Courts and are not charges imposed by this District.

II. Registration

- (A) Attorneys admitted to the bar of this court, including pro hac vice attorneys, must register with the court's ECF system prior to filing any pleadings. Registration must be on an Attorney Registration Form, a copy of which is available on the court's web page (www.ndd.uscourts.gov). A registered user will be issued a login and password. Training for use of the ECF system is available at no cost and is strongly encouraged.

- (B) A non-prisoner who is a party to a civil action, and who is not represented by an attorney, must obtain court approval to register as a user in the ECF system for the duration of their lawsuit. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the clerk will terminate the party's registration in the ECF system upon the attorney's appearance. Pro se prisoners may not register to use the ECF system.
- (C) Only a user or authorized agent of a user may file a document using the user's login and password. Use of a user's login and password by an authorized agent will be deemed to be the act of the user. Law students practicing before the court under [Local Rule 83.6](#) will be deemed an authorized agent of the supervising attorney, who must register as a user in the ECF system.
- (D) **Registration constitutes consent to service of all documents by electronic means as provided by these Administrative Policies.**

III. User Obligations

- (A) A user has a continuing obligation to update their contact information in the ECF system.
- (B) A user must change their access password to the ECF system if they suspect the confidentiality of the password has been compromised.
- (C) A user must report to the [clerk of court](#) any suspected misuse of the ECF system. If the court becomes aware of misuse of the ECF system, a user may be subject to sanctions for failure to comply with these Administrative Policies, including but not limited to, revocation of access without prior notice.
- (D) A user must obtain court approval to withdraw from participating in the ECF system.
- (E) Attorneys registered to use the ECF system and who have been subject to professional disciplinary action in any jurisdiction are under an obligation to notify the court of such action. The court may order suspension or revocation of ECF access until such time as the attorney is in good standing to practice in this District in accordance with [Local Rule of Court 79.1](#).

IV. Deadlines

Filing documents electronically does not alter any filing deadlines. All electronic transmissions of documents must be received by the ECF system prior to midnight, Central Time, in order to be considered timely filed that day. Where a specific time of day deadline is set by court order or stipulation, the electronic filing must be completed by that time.

V. Filing and Service of Civil Case Opening Documents

- (A) Civil case opening documents, such as a complaint, petition, or notice of removal together with the civil cover sheet ([Form JS-44](#)), may be filed in paper but should preferably be submitted in PDF format either attached to an e-mail or recorded on a properly labeled 3.5" floppy, or compact disk. These forms and others are available on the national website for United States Courts (www.uscourts.gov/forms/uscforms.cfm). Any paper document submitted for filing will be electronically scanned by the clerk into PDF format and then destroyed consistent with the policies of the National Archives and Records Administration. The clerk's e-mail address for civil case opening is:

ndd_newcaseBismarck@ndd.uscourts.gov (for filing in [Western Divisions](#))

ndd_newcaseFargo@ndd.uscourts.gov (for filing in [Eastern Divisions](#))

- (B) No case will be opened until the appropriate filing fee is received by the clerk's office.
- (C) All attachments to case opening documents, such as the state court record in a removal matter, may be filed in paper but preferably in PDF format.
- (D) The clerk's office will prepare the summons, imprint the seal of the court and the clerk's signature on the summons, and issue the summons electronically to counsel by way of e-mail. A party may not electronically serve a civil complaint and summons but must print the electronically embossed summons and effect service in accordance with [Fed.R.Civ.P.4](#).

VI. Electronic Filing

- (A) Electronic transmission of a document to the ECF system, together with the transmission of a Notice of Electronic Filing (NEF) as explained in [Section VII](#), constitutes filing of the document for all purposes of the Federal Rules of Procedure and constitutes entry of the document on the docket maintained by the clerk of court pursuant to [Fed.R.Civ.P.58](#), [Fed.R.Civ.P.79](#), [Fed.R.Crim.P.49](#), and [Fed.R.Crim.P.55](#).
- (B) A document filed electronically will be deemed filed at the time and date stated on the NEF.
- (C) All pleadings filed electronically must be titled in accordance with the approved dictionary of civil or criminal events of the ECF system of this court.

VII. Service of Electronically Filed Documents

- (A) **Registration as an ECF user constitutes consent to service by electronic means when permitted by the Federal Rules of Procedure.**
- (B) Unsealed cases. When a pleading or other document is filed electronically in an unsealed case, the ECF system automatically generates and sends an NEF to the filer and all users of record in the case, except for sealed documents and ex parte motions.
 - (1) Ex parte motions. An NEF will not be generated or sent, when filing an ex parte motion in an unsealed case
 - (2) Sealed documents. An NEF will be generated and sent, when filing a sealed motion or sealed document within an unsealed case. Users of record will receive the NEF but will not be able to view the linked sealed document. The filer must accomplish service of the sealed document by traditional means. See [Section XII](#) for additional information on sealed and ex parte documents.
- (C) Sealed cases. When a pleading or other document is filed electronically in a sealed case, an NEF will not be generated or sent, and the filer must accomplish service by traditional means. See [Section XII](#) for additional information on sealed and ex parte documents.
- (D) In all other instances, transmission of the NEF will constitute service of the filed document and will be deemed to satisfy the requirements of [Fed.R.Civ.P.5\(b\)\(2\)\(D\)](#), [Fed.R.Civ.P.77\(d\)](#), and [Fed.R.Crim.P.49\(b\)](#).
- (E) All documents filed using the ECF system must include a certificate of service. The certificate of service must identify the manner in which the service on each party was accomplished. A sample certificate of service form is available on the court's web page (www.ndd.uscourts.gov).
- (F) The user must serve a paper copy of any electronically filed document on attorneys and pro se litigants who are not registered to use the ECF system. Parties who are not registered users will be identified in the NEF.
- (G) Service by electronic means will be treated the same as service by mail for the purpose of adding three (3) days to the prescribed period to respond.

VIII. Signatures

- (A) Attorneys and Pro Se Users. The user login and password will serve as that user's signature for purposes of [Fed.R.Civ.P.11](#) and for all other purposes under the Federal Rules of Procedure and the Local Rules of Court. All electronically

<u>s/</u>	/s/ Richard Smith
Richard Smith	222 4 th Street
222 4 th Street	Anywhere, USA 58201
Anywhere, USA 58201	701-123-4567
701-123-4567	rsmith@internet provider.com
rsmith@internet provider.com	

- ## IX. Exceptions to Electronic Filing

- March 1, 2006

- (B) Documents that may be filed in paper and will be scanned into ECF by the [clerk's office](#):
 - (1) handwritten pleadings;
 - (2) pleadings and documents filed by prisoners and by pro se litigants who are not registered users of ECF;
 - (3) [Fed.R.Crim.P.20](#), [Fed.R.Crim.P.21](#) and [Fed.R.Crim.P.40](#) transfer papers;
 - (4) pleadings and documents for opening a civil case; and
 - (5) pleadings and documents in a removal matter under [28 U.S.C. § 1446](#).
- (C) Leave of court for those using the ECF system must be obtained to file paper documents in any other instance. See [Section I\(B\)](#) for the requirements for using the ECF system.

X. Attachments to Filings and Exhibits (other than hearing and trial exhibits)

- (A) Attachments to pleadings and motions must be filed in PDF format in file size increments that do not exceed the megabyte limitations set forth in [Section I\(D\)](#).
- (B) Filers must not attach as an exhibit any pleading or other paper already on file with the court in that case, but must instead refer to the docket number assigned to the document in ECF.

XI. Transcripts

- (A) Transcripts of non-court proceedings. Non-court generated transcripts (e.g., deposition transcripts from private reporters) that are filed to support any motion or pleading must be filed in PDF format in accordance with [Section X](#) and must be complete copies of the transcripts. The use of partial excerpts as attachments to motions is not encouraged and is not a substitute for the requirement of filing the entire transcript. Also, it is preferred that the transcripts be electronically converted to PDF from word-processor formats, rather than scanned, so the transcripts can be more readily searched. It is the filer's responsibility, not the court or [clerk's office](#), to ensure that transcripts are properly redacted to comply with the Privacy provisions of these Administrative Policies. See [Section XV](#).
- (B) Transcripts of court proceedings. All transcripts of court proceedings (e.g., trial or hearing transcripts) must be filed under seal in the ECF system as PDF documents. See [Section XII](#) for information on sealed documents.

XII. Sealed Documents, Ex Parte Motions, and Sealed Cases

- (A) The ECF system has the capability to allow the court to seal case files and individual documents from public access.

(B) **PERMISSIONS**

- (1) Civil Cases. Filers in civil cases must [contact the clerk's office](#) to request permission to view sealed data and permission to file under seal.
 - (2) Criminal Cases. Filers in criminal cases will be given permission to view sealed data and permission to file under seal upon filing of the criminal case (USA), upon appointment of counsel (CJA or FPD), or filing of notice of appearance (retained counsel).
- (C) Ex Parte Motions. All users may file ex parte motions. Permission to file under seal is not required to file an ex parte motion. An NEF will not be generated or sent.

*****WARNING*****

If you are not sure you have been granted the ability to file under SEAL, confirm your eligibility with the [clerk's office](#).

(D) **UNSEALED CASES**

- (1) Sealed Document. A user may file a sealed document in an unsealed case. The parties to the case will be able to view the document and the docket text entry. The public will not be able to view the document. Filing a sealed document will generate and send an NEF. Users of record will receive the NEF but will not be able to view the linked sealed document. The filer must accomplish service of the sealed document by traditional means. See [Fed.R.Civ.P.5](#).
- (2) Ex Parte Motions. A user may file an ex parte motion in an unsealed case. Only the court will be able to view the document and the docket text entry. The public and the parties to the case (including the filer) will not be able to view the document or the docket entry text. Filing an ex parte motion will not generate an NEF.

(E) **SEALED CASES**

- (1) Sealed Document. In a sealed case, the court and the parties will have permission to view sealed data and permission to file under seal. No filings in sealed cases will generate an NEF. The filer must accomplish service of all documents by traditional means. See [Fed.R.Civ.P.5](#).
- (2) Ex Parte Motions. A user may file an ex parte motion in a sealed case. Only the court will be able to view the document and the docket text entry. The parties (including the filer) to the sealed case will not be able to view the document or the docket text entry. Filing an ex parte motion will not generate an NEF.

XIII. Stipulations

Stipulations must conform to [Section VIII \(B\)](#), regarding multiple signatures. Proposed orders must not be submitted with stipulations unless requested by the court.

XIV. Hyperlinks

- (A) Documents filed on the ECF system may contain hyperlinks but they must be limited to links to material within the filed document or to a location on the Internet that contains a source document for a citation.
- (B) Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document. Neither a hyperlink, nor any site to which it refers, shall be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document.
- (C) The court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site. The court accepts no responsibility for the availability or functionality of any hyperlink.

XV. Privacy

- (A) It is the user's responsibility, not the court or [clerk's office](#), to ensure that the following sensitive personal identifiers are redacted or omitted from any document that the user files with the court to which the public would have remote electronic access:
 - (1) Minors' names – unless only the minors' initials are used;
 - (2) Social security numbers – unless only the last four numbers are used;
 - (3) Dates of birth – unless only the year of birth is used;
 - (4) Financial account numbers – unless only the last four numbers of the account number are used; and,
 - (5) Home addresses – unless only the city and state are used.
- (B) If inclusion of such information is relevant and necessary for proper resolution of the case, then the user must file an unsealed, redacted version of the document, for public viewing, as well as, filing under seal, either (1) the unredacted document or (2) a reference list showing each redacted identifier and its corresponding complete identifier. See [Section XII](#) for information on sealed documents.
- (C) If a redacted document is filed, the user must retain the original document for future production, if necessary, until the entry of a final, non-appealable judgment, or for two years, whichever is later.

XVI. Orders, Judgments and Other Court-issued Documents

- (A) Electronic transmission of all orders, judgments, and proceedings of the court to the ECF system constitutes filing of the document for all purposes of the Federal Rules of Procedure and constitutes entry of the document on the docket maintained by the clerk of court pursuant to [Fed.R.Civ.P.58](#), [Fed.R.Civ.P.79](#), [Fed.R.Crim.P.49](#), and [Fed.R.Crim.P.55](#).
- (B) Any order, judgment or court-issued document filed in the ECF system without an original signature has the same force and effect as if the judge or clerk of court had signed a paper copy and filed it in the conventional manner.
- (C) A judge may grant routine orders by a text-only entry upon the docket. In such cases, no PDF document will issue, the text-only entry will constitute the court's only order on the matter and counsel will receive a system generated NEF.
- (D) A paper copy of electronic filings generated by the court will be mailed by the clerk of court to parties not registered on the ECF system.

XVII. Lodged Documents, Proposed Orders and Courtesy Copies

- (A) A party seeking leave of court to file a proposed document (e.g., amended complaint, modification to scheduling order, brief in excess of page limitations) may lodge the proposed document as an attachment to the motion for leave to file. The court will rule on the motion, and if granted, will direct the party to file an electronically signed original. See [Section X](#) for information on attachments.
- (B) Proposed orders as required by [Local Rules of Court](#) must be filed with the ECF system.
- (C) Courtesy copies must not be filed unless requested by the court.

XVIII. Correspondence

Correspondence must not be filed in the ECF system. Any request for court action must be filed in pleading format.

XIX. Facsimile Transmissions

No pleadings or other documents may be submitted to the court for filing by facsimile transmission.

XX. Errors, Docket Corrections, Contact Information

A user whose filing contains an error may seek appropriate relief from the clerk's office:

[Bismarck office](#), telephone: 1-866-827-3601
e-mail: ndd_helpdeskBismarck@ndd.uscourts.gov

Fargo office,

telephone: 1-866-841-5126

e-mail: ndd_helpdeskFargo@ndd.uscourts.gov

XXI. Technical Failures

A user whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

XXII. Retention

Unless otherwise ordered by the court, documents submitted to the clerk for filing on paper or digital storage media will be destroyed after uploading into the ECF system consistent with the policies of the National Archives and Records Administration.

XXIII. Access to Electronically Stored Documents

- (A) Public access to the civil and criminal dockets and documents in the ECF system is provided through the Public Access to Court Electronic Records (PACER) system. A PACER login and password can be obtained from the PACER service center online at <http://pacer.uscourts.gov/register.html>. Additional information is available at <http://www.ndd.uscourts.gov>. The court's ECF records can be reviewed using a PACER account.
- (B) The public may review at the [clerk's office](#) all filings that are not sealed.